

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Case No. 5:21-cv-00465-M

ERICA KERSHAW,

Plaintiff,

v.

JOHNSTON MEMORIAL HOSPITAL
AUTHORITY, d/b/a Johnston Health,

Defendant.

ORDER

This matter comes before the court on Defendant's motion to dismiss [DE 22]. Defendant seeks dismissal of Plaintiff's claims under the Americans with Disabilities Act ("ADA") and the Family Medical Leave Act ("FMLA"). Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), United States Magistrate Judge Robert T. Numbers, II entered a memorandum and recommendation ("M&R") [DE 37], recommending that the court deny Defendant's motion. To date, no objections have been filed.

A magistrate judge's recommendation carries no presumptive weight. The court "may accept, reject, or modify, in whole or in part, the . . . recommendation[] . . . receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1); *accord Mathews v. Weber*, 423 U.S. 261, 271 (1976). The court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for "clear error" and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Upon careful review of the M&R and the record presented, and finding no clear error, the court ADOPTS the recommendation of the magistrate judge as its own. For the reasons stated therein, Defendant's motion to dismiss [DE 22] is DENIED.

SO ORDERED this 27th day of March, 2023.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE